

E-Filed 2/10/16

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DION DAVIS,

No. C 09-04763 RS (PR)

Petitioner,

**ORDER DENYING MOTION TO
ALTER OR AMEND THE
JUDGMENT**

v.

D. G. ADAMS, Warden,

Respondent.

This is a closed federal habeas corpus action. The petition was denied and judgment was entered in favor of respondent on December 22, 2010. (Docket Nos. 16 and 17.) Petitioner did not file a Notice of Appeal. On January 28, 2016, he filed a motion under Rule 59(e) to alter or amend the judgment, which the Court now addresses.

“Under Rule 59(e), it is appropriate to alter or amend a judgment if ‘(1) the district court is presented with newly discovered evidence, (2) the district court committed clear error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling law.’” *United Nat. Ins. Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009) (quoting *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001)). A Rule 59(e) motion must be filed no later than twenty-eight days after judgment.

1 Petitioner's Rule 59(e) motion is DENIED. First, it is untimely. Judgment was
2 entered on December 22, 2010. To be timely, a Rule 59(e) motion had to be filed no later
3 than twenty-eight days later, that is on January 19, 2011. The instant motion was filed on
4 January 28, 2016, which is far beyond this deadline.

5 Second, he offers no grounds for relief. His motion contains formulaic recitations of
6 legal standards but no specific reasons justifying the granting of relief under Rule 59(e). The
7 Clerk shall terminate Docket No. 18.

8 **IT IS SO ORDERED.**

9 DATED: February 10, 2016


RICHARD SEEBORG
United States District Judge